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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,873	12/05/2000	Stephan Baucke	34645-527USPX P11901US	9361

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EXAMINER

NAJJAR, SALEH

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 03/23/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

P24

**Office Action Summary**

Application No.

09/730,873

Applicant(s)

BAUCKE ET AL.

Examiner

Saleh Najjar

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-18 is/are rejected.
- 7) ☒ Claim(s) 5 and 6 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. This action is responsive to the amendment filed on January 13, 2004. Claims 1, 5-6, and 16-18 were amended. Claims 1-18 are pending. Claims 1-18 represent method and apparatus directed toward processing blocking and non-blocking system call operations in a network.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-4, 7-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Ungar, U.S. Patent No. 6,282,702.

Ungar teaches the invention as claimed including a method and system for executing blocking and non-blocking system calls in a network using a virtual machine environment (see abstract).

As to claim 16, Ungar teaches a method for a fast performance of network operations via a network having high delay times by means of a module for processing a system call of an application layer and for initiating network operations of a network layer, comprising:

transmission of the system call to the module, determination of an execution mode of the system call by differentiating between a blocking and a non-blocking execution mode (see 1-7; col. 11-12, Ungar discloses that blocking and non-blocking system calls are identified), and

direct return of a logical value to the application layer and initiation of a network operation in the case of a non-blocking execution mode (see col. 10-13, Ungar discloses that blocking system calls are executed as non-blocking system call variant and the application runs in a non-blocking state).

As to claim 2, Ungar teaches the method according to claim 1, wherein the network operation is transmitted to a partner instance communicating with a unit initiating the network operation (see figs. 3-7; col. 10-13, Ungar discloses that system call operations are initiated through a node on a network).

As to claim 3, Ungar teaches the method according to claim 2, wherein the network operation received in the partner instance is converted into an operation, which is performed, and wherein a result of the operation is returned to the unit, that initiated the network operation (see col. 10-13).

As to claim 4, Ungar teaches the method according to claim 3, wherein a processing of the received result of an operation is realized in the module (see col. 10-13).

As to claim 7, Ungar teaches the method according to claim 3, wherein the received results with a non-blocking execution mode are buffered (see col. 10-13).

As to claim 8, Ungar teaches the method according to claim 1, wherein the logical values either have a logical positive or a logical negative propositional value (see col. 10-13).

As to claim 9, Ungar teaches the method according claim 8, wherein the logical negative results are reported to the application with the execution of the following system call in the form of a logical negative return value (see col. 10-13).

As to claim 10, Ungar teaches the method according to claim 3, wherein, with a nonblocking system call, in the case of non-pending negative results of previous calls a logical positive value is returned to the application (see col. 10-13).

As to claim 11, Ungar teaches the method according to claim 1, wherein the last system call of a connection is set into a blocking state in order to guarantee a return report of the results of the previously performed operations (see col. 10-13).

As to claim 12, Ungar teaches the method according to claim 1, wherein blocking system calls are realized by waiting for the result of the system call executed in the partner instance (see col. 10-13).

As to claim 13, Ungar teaches the method of claim 1, wherein the system calls are socket system calls (see col. 10-13).

As to claim 14, Ungar teaches the method of claim 13, wherein the socket system calls form a programming interface for an operating system (see col. 10-13).

As to claim 15, Ungar teaches the method according to claim 1, wherein the module is a pipeline module (see col. 10-13).

Claims 16-18 do not teach or define any new limitations above claims 1-15 and therefore are rejected for similar reasons.

4. Claims 5-6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record fails to teach singly or in combination the claimed limitation of interpreting a system call as a non-blocking system call as in claim 5-6).

5. Applicant's arguments filed January 13, 2004 have been fully considered but they are not persuasive. In the remarks, the applicant argues in substance that Ungar replaces blocking calls with non-blocking calls while the present invention tricks the active application into thinking that a blocking operation has been executed.

In response, the present independent claims do not recite that a blocking operation is interpreted as a non-blocking operation.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (703) 308-7613. The examiner can normally be reached on Monday-Friday from 6:30 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Ario Etienne*, can be reached on (703) 308-7562. The fax phone number for this Group is (703) 308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600. The central official fax number for the group is (703) 872-9306.

A handwritten signature in black ink, appearing to read 'Saleh Najjar', with a stylized, cursive script.

Saleh Najjar

Primary Examiner / Art Unit 2157